

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Revision of the Commission's Rules)	CC Docket No. 94-102
To Ensure Compatibility with)	
Enhanced 911 Emergency Calling Systems)	
)	
Request for Waiver of Sprint PCS)	DA 01-1857
)	

**SPRINT PCS REPLY COMMENTS
AND FURTHER SUPPLEMENTAL REPORT**

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Summary

Commission precedent establishes that a waiver of a regulatory deadline is appropriate when the inability to meet the deadline is due to circumstances “outside the licensee’s control.” While public safety is disappointed by vendor delays of certain network components, they do not contest that the delays are outside Sprint PCS’ control. In fact, public safety recognizes that Sprint PCS’ Phase II implementation planning has proceeded with “consistency and energy.”

Sprint PCS seeks the following limited and temporary relief:

1. Relief from “intermediate” activation dates. Sprint PCS expects to meet the two most important handset activation deadlines: begin selling GPS-enabled handsets on October 1, 2001 and sell only GPS-enabled handsets by December 31, 2002. Sprint PCS seeks relief from the two “intermediate” milestones: 25% of all new activations by December 31, 2001 and 50% of all new activations by June 30, 2001. The handset market is highly volatile at present because carriers worldwide are converting to 3G networks. Given this volatility, it is impossible to predict when sufficient quantities of GPS handsets will become available and how quickly consumers will respond to new handsets containing GPS and 3G capabilities.
2. Approval of the Phase II conversion schedule for Lucent markets that Sprint PCS proposed in Appendix A of its July 30, 2001 Supplemental Phase II Report. This schedule may need to be adjusted slightly based on the recent Lucent announcement discussed herein.
3. Establishment of a target date of August 1, 2002 to complete conversions of Nortel markets to Phase II compatibility status. Sprint PCS anticipates completing laboratory testing of Nortel’s Phase II upgrade by December 2001 and conducting a First Market Application in January 2002. Six months (February through July, 2002) should give Sprint PCS the time needed to install the new software generic in all Nortel switches, without jeopardizing continued network reliability.
4. Deferral of the Six Month Implementation Deadline in Rule 20.18(g)(2) until a particular Lucent/Nortel market becomes Phase II compatible. A carrier cannot commence implementation with a Phase II compatible PSAP until its own network is Phase II compatible.

Notably, Sprint PCS does not seek a waiver of the Commission’s Phase II location accuracy requirements.

Sprint PCS’ conversion of its network to Phase II compatibility is only one of several steps necessary before Phase II service can commence. PSAPs must upgrade their CPE and E911 networks to become Phase II compatible, and thereafter the parties must order trunks, load boundary map information and take other steps necessary to begin providing Phase II service to a particular PSAP.

Sprint PCS responds herein to questions raised by public safety groups in their filing, and also responds to an informal information request submitted by Commission staff.

Sprint PCS also reports on a recent announcement by BellSouth indicating that it will not support Phase II due to unspecified “regulatory issues.” This development confirms what wireless carriers and the public safety community have been telling the Commission for some time — namely, Phase II service will not be timely implemented without the full and timely cooperation of E911 network operators. The efforts of PSAPs and carriers for Phase II compliance will be in vain unless the operators of E911 networks install Phase II capabilities in these networks. This matter deserves the Commission’s immediate attention, and Sprint PCS urges the Commission to require all E911 network operators to disclose their Phase II conversion plans. PSAPs and carriers cannot devise a rational implementation schedule without access to this critically important information.

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Sprint Spectrum L.P., d/b/a Sprint PCS ("Sprint PCS"), hereby responds to the comments submitted jointly by NENA, APCO and NASNA ("Public Safety Organizations") and to an informal data request submitted by Commission staff.¹ Sprint PCS also provides the Commission with information concerning important developments that have occurred since Sprint PCS filed its Supplemental Phase II Report on July 30, 2001.²

Sprint PCS understands the Public Safety Organizations' frustration that certain deadlines are being slipped because of vendor delays in delivering essential network components. But as Lucent advised the Commission last week, the fact remains that "no manufacturer currently has a generally available E911 phase II solution, so carriers cannot deploy them in time to meet the

¹ See Comments of the National Emergency Number Administration ("NENA"), the Association of Public Safety Communications Officials-International ("APCO"), and the National Association of State Nine One One Administrators ("NASNA"), Docket No. 94-102 (Aug. 22, 2001)("Public Safety Comments").

² See Sprint PCS Supplemental Phase II Implementation Report and Request for Temporary and Limited Waiver, Docket No. 94-102 (July 30, 2001)("Sprint PCS Waiver Request").

deadline. . . . A carrier simply cannot implement a solution before it is available.”³ And as the Public Safety Organizations have recognized, “All parties know from experience . . . that promises to perform by vendors are not always realized.”⁴

I. THE PUBLIC SAFETY ORGANIZATIONS PROVIDE NO GROUNDS FOR A DENIAL OF SPRINT PCS’ LIMITED WAIVER REQUEST

The Commission has consistently granted waivers of FCC deadlines when noncompliance is due to circumstances “beyond the licensee’s control.”⁵ Sprint PCS shares the disappointment of the Public Safety Organizations resulting from the delays in delivery of certain Phase II components. The Public Safety Organizations do not contest, however, that these delays are outside Sprint PCS’ control or that Sprint PCS timely ordered all necessary equipment. To the contrary, these Organizations recognize that Sprint PCS’ Phase II implementation planning has proceeded with “consistency and energy.”⁶ While Sprint PCS seeks to implement Phase II services as early as possible, as extensively documented in its Supplemental Report and despite its significant efforts and expenditures, the reality is that all of the components for these systems are not yet available and cannot be deployed within the FCC’s existing deadline. A waiver is thus appropriate under the circumstances.

³ Letter from Diane Law Hsu, Corporate Counsel, Lucent Technologies, to Magalie Salas, FCC Secretary, Docket No. 94-102 (Aug. 30, 2001).

⁴ NENA and APCO Comments, Docket No. 94-102, at 2-3 (July 25, 2001).

⁵ See Sprint PCS Waiver Request at 28 n.19, citing *McElroy Electronics*, 13 FCC Rcd 7291, 7295 ¶ 8 (1998) (“We grant extensions of construction deadlines when the failure to construct is due to circumstances beyond the licensee’s control.”); *Norris Satellite*, 12 FCC Rcd 22299, 22303 ¶ 9 (1997) (“This non-contingent requirement has been strictly construed and only waived when delay in implementation is due to circumstances beyond a licensee’s control.”); *21st Century Telesis*, 15 FCC Rcd 25113 ¶ 18 (2000) (“The Division has granted waivers of the upfront payment deadline in cases where the applicant’s actions demonstrated that, but for reasons outside the control of the applicant, it would have been able to meet the upfront payment deadline.”); *Telephone Number Portability*, 12 FCC Rcd 7236, 7289 ¶ 92 (1997).

⁶ Public Safety Comments at 1.

Sprint PCS expects it will timely meet the two most important handset deadlines — begin selling GPS-capable handsets by October 1, 2001 and sell only GPS-capable handsets by December 31, 2002. Indeed, Sprint PCS anticipates selling five million GPS handsets next year alone. In addition, Sprint PCS anticipates that its entire nationwide network will be completely Phase II compatible in less than one year — by August 1, 2002.⁷ The Commission should grant the temporary and limited rule waiver that Sprint PCS seeks.

It is important for the Commission to understand that Sprint PCS' Phase II network conversions will enable Sprint PCS to provide Phase II service, but will *not* result in the immediate provision of Phase II service. As previously advised, the provision of Phase II service entails three discrete steps: (1) the carrier's network must be Phase II compatible; (2) the PSAP's CPE and E911 network must be Phase II compatible; and (3) the parties must then do the necessary installation work (*e.g.*, order trunks, load PSAP boundaries, translations, build routing tables, *etc.*).

A. Requiring the Development of Interim Solutions Would Further Delay Phase II Deployment

The Public Safety Organizations contend that the Commission “should require an interim solution and a contingency plan, or some explanation of why these are not needed.”⁸ Current FCC rules do not require carriers to implement “interim solutions” or “contingency plans.” Sprint PCS has adopted the most accurate Phase II solution available, it has aggressively pursued

⁷ Sprint PCS is concerned that there may be confusion regarding its proposed Lucent conversion schedule, appended as Appendix A to its July 30, 2001 waiver request. That schedule proposes target dates for the implementation of Phase II service with particular PSAPs. Sprint PCS' Lucent markets obviously will become Phase II *compatible* before Phase II service with a particular PSAP becomes *operational*. Thus, conversion of Lucent switches to Phase II will not signal the date Phase II service is available. As documented in this docket, additional steps involving the carrier, PSAP and the LECs are required.

⁸ Public Safety Comments at 4.

implementation, and it has expended significant resources in doing so. Pursuit of additional alternative systems at this time would only serve to divert resources from Sprint PCS' current implementation program and further delay deployment of Phase II services. The public interest is best served by allowing Sprint PCS to pursue a focused implementation strategy. As public safety recognizes, Sprint PCS has pursued Phase II implementation with "consistency and energy."⁹ Sprint PCS should be allowed to complete the task.

Moreover, the Public Safety Organizations do not identify the "interim solution" they think Sprint PCS should be considering. Presumably, the Organizations are not referring to the forward link triangulation ("FLT") technology that Sprint PCS once proposed, but which APCO opposed,¹⁰ and which the Commission rejected.¹¹ In light of that Commission decision and the Public Safety Organizations' opposition, Sprint PCS understandably abandoned further work on alternatives to its current Phase II program. Instead, over the past year, Sprint PCS has focused its efforts in planning and pursuing implementation of the most accurate and compliant Phase II location technology, assisted GPS.

Sprint PCS plans to have its network 100% Phase II compatible *in less one year* — by August 1, 2002. Handset acquisition has already begun and, as set forth in its waiver request, Sprint PCS has committed to completing that conversion by the end of 2002 — within the time prescribed by current handset rules. There is, therefore, no basis for mandating adoption of any "interim" solution (even assuming one could be identified *and* implemented before Sprint PCS commences its Phase II network conversions). To confirm, pursuit of an interim solution at this

⁹ Public Safety Comments at 1.

¹⁰ See APCO Opposition to Sprint PCS Reconsideration Petition, Docket No. 94-102, at 5-6 (Feb. 22, 2000).

¹¹ See *Fourth E911 Reconsideration Order*, 11 FCC Rcd 17442, 17461 ¶ 50 (2000).

late stage would only divert critical resources from implementing the assisted GPS solution that all agree is the superior approach to Phase II E911 service.

B. The PUBLIC SAFETY ORGANIZATIONS' REMAINING QUESTIONS PROVIDE NO BASIS FOR DENYING SPRINT PCS' WAIVER REQUEST

The Public Safety Organizations in their comments ask questions of Sprint PCS which do not appear to be related to Sprint PCS' ability to meet the Phase II mandate and which, as a result, should not impact favorable consideration of Sprint PCS' waiver request. Sprint PCS below responds to these questions in the order they are raised.

1. *"[W]e would like to hear more from the carrier about why it has elevated the commercial interest in speed of data transmission over the public interest in the fastest possible deployment of location-capable 2G wireless phones" (Comments at 2).*

Sprint PCS is at a loss to understand how its waiver request — demonstrating that Sprint PCS will timely begin selling GPS handsets by October 1, 2001 and will timely sell only GPS based handsets by December 31, 2002, with Sprint PCS anticipating selling five million GPS-enabled handsets by the end of 2002 — demonstrates an "elevation" of "commercial interest . . . over public interest."

The Public Safety Organizations' concern appears to be addressed to the Sprint PCS request for a waiver of the two "intermediate" milestones (25% by December 31, 2001, and 50% by June 30, 2002). However, APCO originally proposed a 24-month handset activation phase-in schedule (vs. the current 15-month schedule) that included only one "intermediate" milestone.¹² What is significant, Sprint submits, is that it plans to meet the 100% new activation deadline of December 31, 2002 that APCO proposed over two years ago.¹³

¹² See *Third E911 Order*, 14 FCC Rcd 17388, 17405 ¶ 35 (1999).

¹³ See *id.* at ¶ 35 and n.55.

“Intermediate” milestones are difficult to establish with any confidence because the handset market is a worldwide market that is influenced by developments throughout the world. Mobile carriers in the U.S., like carriers throughout the world, are converting their networks to new “third generation” technologies that will bring enormous benefits to the public and the economy.¹⁴ Handset vendors are responding to this important and major development. In this context, handset manufacturers are turning away from developing new handsets with the 2G technology — although to meet the FCC requirements, Sprint PCS has convinced one of its vendors to develop 2G GPS handsets. Sprint PCS’ goal is to sell five million new GPS-enabled handsets before December 31, 2002. Obviously, Sprint PCS will meet various milestones during the course of 2002. At this time, however, it is hard to estimate what milestones will be reached by what date.

Importantly, Sprint PCS’ 3G network will provide two capabilities that would appear to be important for public safety: (1) increased voice capacity (which will reduce the chance 911 call attempts are blocked), and (2) increased battery lives (which will increase the likelihood a handset will work when a customer attempts to make a E911 call). Given the benefits of Sprint PCS’ 3G network to the economy, to consumers and to the public safety community, Sprint PCS would hope that public safety community would recognize the importance of this effort.¹⁵

¹⁴ The Council of Economic Advisors has predicted that the consumer benefit from 3G networks will range from \$53-\$111 billion annually. *See* The Council of Economic Advisors, *The Economic Impact of Third-Generation Wireless Technology*, at 1 (Oct. 2000).

¹⁵ Sprint PCS does not understand the Public Safety Organizations’ statement that “Sprint PCS and the Commission [should] take a close look at the [3G] issue.” *Id.* at 3. The Organizations cannot be suggesting that Sprint PCS sell only 2G GPS handsets beginning in October. This is not required by FCC rules and there will be insufficient 2G handset inventory in any event. Nor can the Organizations be suggesting that Sprint PCS delay implementation of 3G.

2. *"Neither Sprint PCS nor Nortel explains why it is taking so long to release the software on which carrier switch upgrades depend"* (Comments at 3).

If the Commission believes that customer pressure on Nortel to provide timely delivery is not sufficient, it should consider bringing direct pressure on Nortel to develop its software at a faster pace. Sprint PCS has been in regular contact with Nortel and does not believe Nortel has or is intentionally delaying software development in order to thwart the goals of public safety. Development of complex new software frequently involves delays and slipped delivery dates. The issue before the Commission, however, is whether such delay is within the control of Sprint PCS. It is not.

Moreover, it is important to emphasize that accelerating the delivery date of software for testing does not necessarily ensure that Phase II service could be implemented sooner. It is possible, if not likely, that an order directing vendors to accelerate deliveries will result only in the software containing additional bugs, meaning that the software will need to spend additional time in Sprint PCS' laboratory, so that bugs can be identified which, in turn, would require additional vendor modifications -- and delivery delays.

3. *"Is Sprint PCS implying that a location data 'pull' function and a capability to receive confidence level information have been imported into the rules from J-STD-36, sub silentio?"* (Comments at 3).

While this question does not appear to be relevant to Sprint PCS' waiver request, Sprint PCS has not suggested that it will delay network deployment or handset sales because of these issues. Sprint PCS is simply stating for the record that public safety will need to be capable of receiving and utilizing the information data that Sprint PCS' network will generate. Given the information received, to date, from 911 service providers, PSAP and E911 network readiness

promises to be a substantial hurdle with which both public safety and the Commission should be concerned.

Location calculation is not likely to occur within the three-to-five second window available during call set up. Accordingly, a PSAP's ALI database will need the ability to pull data from wireless carriers after call set up has occurred. This method of transmission was anticipated and incorporated into J-STD-036, a standard jointly developed by carriers and public safety. Unfortunately, 911 service providers have ignored or not focused on PSAP needs for Phase II systems, and they appear to be making little or no effort to upgrade existing ALI databases to comply with J-STD-036.

To confirm, this problem does not prevent Sprint PCS from meeting its obligations, *but it will affect a PSAPs ability to receive and use Phase II data*. Sprint PCS is concerned that the Commission and PSAPs do not seem to be aware of the problem or appreciate its significance on the timely provision of Phase II service. As discussed below, Sprint PCS recommends that the Commission direct all E911 network operators to publish their plans to convert network components to the industry standard, J-STD-036.

In addition, a confidence factor is not required by FCC rules, but industry included this capability in the standards at the request of the public safety community. As the Public Safety Organizations advised the Commission only weeks ago, "To respond to emergencies on poor information may be worse than not responding at all."¹⁶ The confidence factor would permit a PSAP to determine, whether the location information being provided is based upon a precise GPS calculation (within a few meters) or is merely a default calculation based on the serving cell site/sector (within miles).

¹⁶ APCO/NENA Ex Parte, Docket No. 94-102, at 2 (July 26, 2001).

4. *"We assume Sprint PCS will report as soon as possible on the First Market Application slated to occur this month in Rhode Island"* (Comments at 3).

Sprint PCS commenced internal testing in mid-August. Unfortunately, the PSAP has had to delay its participation in the test because of its own vendor delays. The PSAP is currently expected to join the Sprint PCS test in mid-September. The Sprint PCS/PSAP tests are scheduled to last several weeks. Sprint PCS will submit a report once the Rhode Island test is completed and it has had time to analyze the data.

It is critical for the Commission to understand that Sprint PCS is able to engage in this test because it was able to convince Lucent to develop a special, test Phase II software patch for its MSC operating software, ECP 16.1. Lucent has since released a new version of its operating software, ECP 17.1, which Sprint PCS has installed in much of its network. However, Sprint PCS has not upgraded the operating software in its mobile switch serving Rhode Island so it can continue with this Phase II test.

It is Sprint PCS' understanding that the Phase II software application that Lucent plans to release will be similar to the software patch that Sprint PCS is currently evaluating. Accordingly, the fact that the Rhode Island test is underway, using a specially designed test software patch, does not mean that a commercial product is available for installation and use in other markets. Such commercial grade software does not exist, as Lucent has advised the Commission.¹⁷

¹⁷ See Letter from Diane Law Hsu, Corporate Counsel, Lucent Technologies, to Magalie Salas, FCC Secretary, Docket No. 94-102 (Aug. 30, 2001)("[N]o manufacturer, including Lucent, has an E911 solution that will be commercially available in time for carriers to meet the current Phase II deadline.").

5. *"It would be helpful to know, in the aggregate, the numbers of subscribers served by Lucent and Nortel switches"* (Comments at 3).

Sprint PCS questions how customer information is relevant to its pending waiver request, given that access to this data does not change vendor delivery schedules in any way. If the Commission determines this information is relevant, Sprint PCS requests that it permit Sprint PCS to submit this commercially sensitive information on a confidential basis. There appears to be no need to put such confidential information on the public record — especially since Sprint PCS proposes to complete all Lucent and Nortel Phase II conversions in less than one year.

6. *"[P]erhaps [Sprint PCS] should devote more than 10 full-time employees to the processing of E9-1-1 service requests"* (Comments at 3).

Sprint PCS has far more than ten employees working on E911 implementation, as it explained in its waiver request. See Waiver Request at 22 ("In support of these individuals, Sprint PCS pays Intrado Inc. (formerly known as SCC Communications) to provide administrative, engineering and database support. In addition, engineers at the national, regional and local levels provide technical support, network design, network installation and testing for the 911 team. The subscriber equipment business unit devotes substantial resources working with vendors to develop GPS-based handsets . . .").

7. *"Please explain the sentence: 'If the caller's location cannot be calculated within the standard call set up time, three to five seconds, then no location information can reach the PSAP if the E2 interface is not installed'"* (Comments at 2).

Again, the issue raised by Sprint PCS' waiver request is whether Sprint PCS' inability to meet certain Phase II deadlines is due to circumstances beyond its control. On this point, the evidence is uncontested that delays with vendor deliveries are beyond Sprint PCS' control.

To respond to Public Safety, however, as noted above, if a caller's location cannot be calculated and transmitted during call set up, the PSAP's ALI database must have the capability to request or "pull" that information. This ability has been described as an E-2 interface. As noted in Sprint PCS' waiver request:

Given the time required to acquire satellite signals, transfer large volumes of information regarding power levels and time delays, run a calculation on a position and return that information over existing PSTN connections, it appears very likely that position calculation could take more than three to five seconds.¹⁸

Sprint PCS further explained that the E2 interface is necessary because "the ALI database must be capable of pulling data . . . both to permit PSAPs to refresh location and to allow access to location information when it cannot be calculated within the call set up time."¹⁹ Among the features available with the E2 interface specified in J-STD-036 is the "refresh" capability PSAPs will require to ensure they always receive location information when it is available.

II. RESPONSE TO INFORMAL COMMISSION STAFF INQUIRY

On August 23, 2001, Commission staff informally requested Sprint PCS to provide certain data. This section responds to that inquiry.

A. Interim Benchmarks

Sprint PCS intends to meet the two most important handset penetration deadlines: begin selling GPS-capable handsets by October 1, 2001 and sell only GPS handsets by December 31, 2002. Sprint PCS sought a waiver of the two "intermediate" deadlines — by December 31, 2001 25% of all new handsets sold must be GPS enabled, and by June 30, 2002, 50% of all new handset sold must be GPS enabled — because it is likely that there will be an insufficient handset in-

¹⁸ Waiver Request at 25.

¹⁹ *Id.* at 9.

ventory to meet these “intermediate” deadlines. Commission staff has asked Sprint PCS to suggest proposed alternative “intermediate” deadlines.

The Commission adopted its “intermediate” deadlines to help ensure that CMRS carriers are on a clear path to compliance. Sprint PCS has represented that it plans to meet the existing December 31, 2002 deadline that it sell only GPS-enabled handsets. Sprint PCS has, moreover, announced its commitment to try to sell five million handsets by the end of next year — a commitment made by no one else. Given these circumstances, Sprint PCS questions the need for “intermediate” milestones.²⁰

The Commission has recognized that “intermediate” milestones it established can be “difficult to measure.”²¹ In addition, any date that Sprint PCS might propose at this point would be arbitrary because Sprint PCS does not currently know the precise dates that specified quantities of handsets will be in inventory. Sprint PCS cannot also predict with precision consumer response to new handsets. If the Commission determines that “intermediate” milestones remain important, Sprint PCS would propose a 10% benchmark by December 31, 2001 and a 30% benchmark by June 30, 2002. For the reasons submitted, however, Sprint PCS asks that the Commission not impose “intermediate” milestones on it.

B. Nortel Rollout Schedule

Commission staff has asked when Sprint PCS will be able to develop a conversion schedule for Nortel markets. Sprint PCS will submit to the Commission a market specific conversion schedule once it successfully completes testing of the Nortel Phase II upgrade (MTX 10).

²⁰ It is noteworthy that the Commission’s original handset phase-in program covered a 19-month period (vs. the current 15-month period) and included only one “intermediate” milestone. See *Third E911 Order*, 14 FCC Rcd 17388, 17408 ¶ 42 (1999).

²¹ *Fourth E911 Reconsideration Order*, 15 FCC Rcd 17442, 17455 n.65 (2000).

Sprint PCS hopes to complete all testing (including receipt of vendor modifications identified by the tests) in December 2001, and it would expect to publish a conversion schedule for Nortel markets at that time. Laboratory testing of new software is critically important before commercial deployment in network switches.

Sprint PCS has scheduled laboratory testing of Nortel software release, MTX 10. Assuming that unusual problems are not encountered, Sprint PCS currently plans to do a First Market Application ("FMA") in January, 2002. Sprint PCS ordinarily lets new software "soak" in the FMA for approximately four weeks to ensure that the new software does not adversely effect other services used by customers. Again assuming that no problems are encountered in the FMA, Sprint PCS would propose to complete the network compatibility conversion of all Nortel markets by *August 1, 2002*. As noted, Sprint PCS hopes to publish a market specific conversion schedule before the end of this year, so PSAPs in Nortel markets can continue their planning efforts.

The Commission has recognized in numerous contexts that carriers need time to implement new software and equipment once the manufacturer makes its upgrades "generally available."²² For example, last December the Commission noted that the upgrades needed for the provision of TTY service would become generally available by December 31, 2001. The Commission therefore established a June 30, 2002 implementation deadline so carriers would have six months in which to deploy the upgrades throughout their networks.²³

²² See, e.g., *CALEA Extension Order*, 13 FCC Rcd 17990, 18017 ¶ 48 (1998) (CMRS carriers need at least six months to "purchase, test and install [CALEA-compliant] equipment and facilities throughout their networks" once vendors had must such equipment and facilities readily available.).

²³ See *Fourth E911 Order*, 15 FCC Rcd 25216 at ¶ 8 (2000).

The network upgrades needed for Phase II service are far more substantial than the upgrades for TTY service, and Nortel's Phase II solution is incorporated in a new operating software generic. Sprint PCS' proposed seven-month conversion schedule (including one month for FMA) is thus consistent with prior Commission decisions. While conversion to Phase II capabilities is important, maintaining network reliability is also essential.²⁴

C. Phase I Implementations

Commission staff also asked for a status report regarding Phase I conversions. Sprint PCS waiver request is limited to Phase II, which involves a different chronology and technology than Phase I. In addition, the steps PSAPs, E911 network operators and carriers must take to implement Phase II are more involved and complex than that required to implement Phase I. Nevertheless, Sprint PCS will provide a summary of its Phase I conversions under a separate filing as soon as it can be compiled.

D. Rhode Island Test Results

Commission staff asked that Sprint PCS submit a report of this trial once the testing is complete. Sprint PCS will do so, as discussed above.

III. NEW DEVELOPMENTS

Two recent developments must be brought to the Commission's attention. First, on August 10, 2001, Lucent Technologies advised Sprint PCS that it was delaying by two months the general availability of its Phase II software modifications:

²⁴ For example, the FCC ordered LECs to implement local number portability over a 15-month period because it has "a significant interest in ensuring the integrity of the public switched network as number portability is deployed nationwide." *First LNP Order*, 11 FCC Rcd 8352, 8394 ¶ 79 (1996). *See also First LNP Reconsideration Order*, 12 FCC Rcd 7236, 7285 ¶ 83 (1997)("[W]e consider network reliability to be of paramount importance.").

While Lucent originally estimated that our E911 network features would be Generally Available (GA) in early September, due to changes in mobile software, limited access to over-the-air test facilities and the availability of Assisted-GPS mobiles, final testing has been delayed. These issues have been resolved and we are now proceeding with the First Office Application (FOA).

The FOA will be conducted using CDMA Software Release 17.1. The new target GA date for the following E911 Phase II compliance features is November 9, 2001.²⁵

This unfortunate development may impact the Lucent implementation schedule which Sprint PCS attached to its July 30, 2001 waiver petition, and Sprint PCS may need to seek a further deferral of all dates by a minimum of one and possibly two months (assuming, of course, that Lucent does not slip the new November 9, 2001 general availability date). Sprint PCS has contacted Lucent to get a better understanding of how this development will impact Sprint PCS and its previously announced conversion schedule. It will advise the Commission of any additional information and developments in this area.

Second, on August 13, 2001, BellSouth advised Sprint PCS that it will "not offer a Phase II solution":

BellSouth has determined that certain regulatory issues prevent it from offering a Phase II solution.²⁶

BellSouth did not, however, identify the "regulatory issues" that supposedly prevent it from offering a Phase II solution. Nor did its brief announcement identify the E911 network elements that are impacted by its decision.

This BellSouth announcement again confirms what wireless carriers and the public safety community have been telling the Commission for some time: Phase II service will not be timely

²⁵ Memorandum from Michael Iandolo, Lucent Vice President, TDMA/CDMA Product Management, to Wireless Carriers (Aug. 10, 2001), *appended as Exhibit 1*.

²⁶ Carrier Notification from Jim Brinkley, Senior Director, BellSouth Interconnection Services, to Wireless Carriers, SN91082565 (Aug. 13, 2001), *appended as Exhibit 2*.

implemented without the full and timely cooperation of E911 network operators. Given that Sprint PCS will be converting dozens of markets to Phase II technology within the next year and given the substantial PSAP interest in obtaining Phase II service at the earliest possible date, the Commission should require all E911 network operators to disclose their Phase II conversion plans market by market.

Armed with such facts, wireless carriers and the public safety community could then devise a rational implementation schedule — one that focuses resources in areas where both PSAPs and their E911 network operators are Phase II capable. Sprint PCS again submits that the E911 network Phase II readiness demands the Commission's immediate attention.

Sprint PCS has not yet had the opportunity to consider the ramifications of BellSouth's announcement, and it would like the opportunity to discuss these ramifications with the Public Safety Organizations. However, it would appear imprudent for Sprint PCS to convert early in the implementation process its network in BellSouth markets. Critical resources are better deployed in areas where PSAP E911 network operators have modified their networks to support Phase II.

IV. CONCLUSION

The law is clear: a waiver is appropriate if a licensee's inability to meet a regulatory deadline is due to circumstances "beyond its control." The facts are also clear: Sprint PCS' inability to meet certain deadlines is due to circumstances beyond its control. Based on the law and the facts, Sprint PCS is entitled to the limited waiver that it seeks. Specifically, Sprint PCS seeks the following:

- ◆ A waiver of the two "interim" handset milestones (25% by December 31, 2001, and 50% by June 30, 2002), but not a waiver of the October 1, 2001 deadline to

begin selling GPS-capable handsets or of the December 31, 2002 deadline to begin selling only GPS-capable handsets.

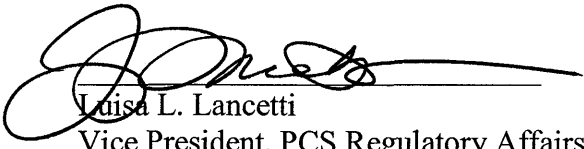
- ◆ Approval of the Phase II conversion schedule for Lucent markets that Sprint PCS proposed in its July 30, 2001 Supplemental Implementation Report, although these dates may need to be adjusted, by one month or two, based on Lucent's August 10, 2001 announcement discussed above.
- ◆ Establishment of a target date of August 1, 2001 to complete Phase II network readiness for Nortel markets. Sprint PCS will publish, and submit to the Commission, a market-specific conversion schedule for individual PSAPs once it successfully completes its laboratory testing of the Nortel software.
- ◆ Deferral of the six-month implementation deadline in Rule 20.18(g)(2) until a particular Lucent or Nortel market is converted to Phase II compatibility.

There are two additional steps that the Commission should take. First, it should consider the Public Safety Organizations' suggestion that it "may be preferable for the Commission to consider suspending enforcement of the six-month rule at Section 20.18(g)(2) and giving the parties ample opportunity to come to terms voluntarily, without regulatory fiat."²⁷ Second, the Commission should expeditiously order all E911 network operators to disclose their Phase II-conversion plans. Indeed, the Commission's six month implementation rule is meaningless *unless* E911 networks are Phase II compatible.

²⁷ Public Safety Comments at 5.

Respectfully submitted,

SPRINT SPECTRUM L.P., D/B/A SPRINT PCS



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September 4, 2001

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August 10, 2001

Lucent Technologies is aware that many carriers have filed extension requests of the E911 Phase II deadlines with the FCC. Accordingly, we are providing you with up-to-date information regarding the availability of our E911 Phase II network compliance features.

While Lucent originally estimated that our E911 network features would be Generally Available (GA) in early September, due to changes in mobile software, limited access to over-the-air test facilities and the availability of Assisted-GPS mobiles, final testing has been delayed. These issues have been resolved and we are now proceeding with the First Office Application (FOA).

The FOA will be conducted using CDMA Software Release 17.1. The new target GA date for the following E911 Phase II compliance features is November 9, 2001:

- **FID 3581.0:** E911 Phase II compliance (j-std-036)
- **FID 3581.1:** CDMA Enhancements for E911 Phase II
- **FID 4403.0:** Flexent Position Determination Equipment (PDE)
- **FID 3581.2:** More CDMA Enhancements for E911 Phase II (This feature helps refine the location of mobiles when a pure GPS fix is not possible.)

Lucent recognizes that E911 Phase II is a vital service for wireless subscribers, enabling quick location identification of a mobile phone user in an emergency. We are committed to providing the appropriate network compliance features in the most expedient manner possible. The new GA date will ensure our solution is well tested, fully integrated with handsets and other components, and standards-compliant before making it available to wireless operators.

Sincerely,

cc: M. Chan



BellSouth Interconnection Services

675 West Peachtree Street
Atlanta, Georgia 30375

**Carrier Notification
SN91082565**

Date: August 13, 2001

To: Wireless Carriers

Subject: Wireless Carriers – Announcement concerning Wireless E911 Phase II

Since 1998, BellSouth has provided an E911 Phase I solution that allows Wireless Carriers to be compliant with the Federal Communications Commission's Order in CC Docket 94-102 (FCC 96-264), released July 26, 1996, in the matter of Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems. BellSouth has determined that certain regulatory issues prevent it from offering a Phase II solution.

BellSouth will continue to offer a Phase I solution. However, BellSouth will not offer a Phase II solution. BellSouth advises you to select another solution for E911 Phase II. Other E911 solution providers include, but are not limited to GTE TSI, Intrado (formerly SCC) and XYPoint. BellSouth recommends that you contact an alternative provider so that your company can secure a Phase II compliant solution in time to meet the FCC mandate of October 1, 2001.

BellSouth can still be instrumental in assisting wireless carriers in meeting their Phase II obligations by your company choosing an alternative carrier to transport X, Y coordinates and establishing an ALI interface. BellSouth plans to offer its professional services to assist carriers in their transition to a Phase II provider. Please contact your BellSouth account team representative or Karen Nurkiewicz at 404-927-1277, if you would like to explore this option.

Sincerely,

ORIGINAL SIGNED BY MATEO CAYMOL FOR JIM BRINKLEY

Jim Brinkley – Senior Director
BellSouth Interconnection Services

CERTIFICATE OF SERVICE

I, Jo-Ann G. Monroe, do hereby certify that on this 4th day of September 2001, copies of the foregoing "Sprint PCS Reply Comments and Further Supplemental Report" were served by U.S. first-class mail, postage prepaid, to the following:

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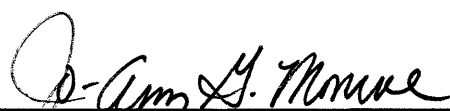
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